



EUROPEAN CENTRAL BANK

EUROSYSTEM

ECB-PUBLIC

Mario DRAGHI

President

Mr Luke Ming Flanagan
Member of the European Parliament
European Parliament
60, rue Wiertz
B-1047 Brussels

Frankfurt, 22 December 2016

L/MD/16/538

Re: Your letters (QZ-113, 114, 115 and 116)

Honourable Member of the European Parliament, dear Mr Flanagan,

Thank you for your letters, which were passed on to me by Mr Roberto Gualtieri, Chairman of the Committee on Economic and Monetary Affairs, accompanied by a cover letter dated 8 December 2016.

The Single Supervisory Mechanism (SSM) aims to ensure coherent and high-quality prudential supervision of credit institutions within the participating Member States. Under the current supervisory set-up, significant banks are directly supervised by ECB Banking Supervision. The scope of the ECB's direct supervision includes not only the parent credit institutions, but also their subsidiaries in the participating Member States. As is also laid down in the Interinstitutional Agreement between the European Parliament and the ECB, any reporting obligations vis-à-vis the European Parliament are subject to the relevant professional secrecy requirements, as outlined in the Capital Requirements Directive IV.¹ The ECB can therefore not comment on the status of individual supervised institutions or on the supervisory measures taken with regard to them. Nevertheless, allow me to address your questions by first clarifying what powers ECB Banking Supervision has to address breaches by significant banks.

¹ Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC Text with EEA relevance. The full text is available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32013L0036>

Address
European Central Bank
Sonnemannstrasse 20
60314 Frankfurt am Main
Germany

Postal Address
European Central Bank
60640 Frankfurt am Main
Germany

Tel. +49-69-1344-0
Fax: +49-69-1344-7305
Website: www.ecb.europa.eu

The ECB has a variety of supervisory tools at hand to address breaches by significant banks, including sanctioning powers. In exercising such powers, the ECB acts in accordance with the legal framework resulting from directly applicable Union law or ECB decisions or regulations, national laws transposing EU directives and other applicable national laws. In the event of breaches of national laws, including by natural persons, the ECB may request the relevant national competent authority (NCA) to open the appropriate proceedings. NCAs can only take action against significant banks upon the ECB's request.² With regard to breaches that occurred before 4 November 2014, the date on which ECB Banking Supervision became operational, the ECB may exert sanctioning powers under certain circumstances.

Having clarified these issues, I would also like to reassure you that in my previous capacity as Governor of the Banca d'Italia I was not notified of the issue raised in your letters. Following receipt of your letters, I consulted the Central Bank of Ireland in order to obtain further information. As was also stated publicly before the Irish Parliament, the Central Bank of Ireland carried out an in-depth investigation into this case and considers the matter to be closed.³ On the basis of the available information and with regard to the aforementioned remit of ECB Banking Supervision, the ECB does not intend to take specific renewed action on the above. Please also note that, taking into account the relevant information obtained from the Central Bank of Ireland, even if the conditions for the ECB to exercise sanctioning powers in respect of breaches dating back to before 4 November 2014 were met in this instance, the ECB would not have the power to impose sanctions with respect to the case reported in your letters, as the limitation period of five years for imposing administrative penalties set out in Article 130(1) of the SSM Framework Regulation would have expired.⁴

² More information is available on the ECB's website (<https://www.bankingsupervision.europa.eu/banking/tasks/enforcement/html/index.en.html>)

³ See the transcript of the Dáil debates of 25 November 2010, available at: <http://oireachtasdebates.oireachtas.ie/debates%20authoring/debateswebpack.nsf/takes/dail2010112500090?opendocument>

⁴ Regulation (EU) No 468/2014 of the European Central Bank of 16 April 2014 establishing the framework for cooperation within the Single Supervisory Mechanism between the European Central Bank and national competent authorities and with national designated authorities (SSM Framework Regulation) (ECB/2014/17). The full text is available at: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2014.141.01.0001.01.ENG

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European Central Bank
Sonnemannstrasse 20
60314 Frankfurt am Main
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Fax: +49 69 1344 7305
Website: www.ecb.europa.eu

For any future questions relating to the exercise of the tasks conferred on the ECB within the framework of the SSM, I would invite you to address the Chair of the ECB Supervisory Board, in line with the established principle of separation between monetary policy and banking supervision and the provision laid down in Article 3 of the Interinstitutional Agreement between the European Parliament and the ECB.⁵

Yours sincerely,

(signed)

Mario Draghi

⁵ Interinstitutional Agreement between the European Parliament and the European Central Bank on the practical modalities of the exercise of democratic accountability and oversight over the exercise of the tasks conferred on the ECB within the framework of the Single Supervisory Mechanism, available on the ECB's website at https://www.ecb.europa.eu/ecb/legal/pdf/celex_32013q113001_en_txt.pdf

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